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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,162

06/22/2006

Shoji Yuyama

2005-1963A

2504

513

7590

11/24/2009

WENDEROTH, LIND & PONACK, L.L.P.

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EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

MAIL DATE

DELIVERY MODE

11/24/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,162	<b>Applicant(s)</b> YUYAMA ET AL.	
	<b>Examiner</b> TIMOTHY R. WAGGONER	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21-25 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,8,15,19 and 21-25 is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-14,17,18 and 30-34 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed with respect to claim 1 and its dependent claims have been fully considered but they are not persuasive. Applicant has amended the claim to define that the movable wall comprises two walls which oppose each other. However the two walls form a single unit and they move as a single unit. The fact that the movable wall is constructed of two walls appears to be merely a method of manufacture for providing a single unit. For at least the foregoing reasons claim 1 and its dependent claims stand rejected.

Applicant's arguments, see remarks, filed 06/25/2009, with respect to the rejection(s) of claim(s) 11 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Riley in view of Chudy et al.

Applicant's arguments, see remarks, filed 06/25/2009, with respect to claims 8,15,19 and 24 have been fully considered and are persuasive. The objections of claims 8,15,19 and 24 have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley et al. USPN 5,348,061.

(Re claim 1,9,10) "a drug feeder" (34 figure 5). "the drug dispenser" (102 figure 5). "temporarily accumulate an open top and a bottom adapted to be opened and closed (78,74 figure 5). "peripheral surface being formed by a movable wall ... move when the bottom ,,, is opened" (86,88 figure 5). "a drug filling section" (102,24 figure 5). "a plurality of common passageways" (72,74,76,78 figure 7).

The fact that the movable wall is constructed .of two walls appears to be merely a method of manufacture for providing a single unit as such does not have patentable weight with regards to the final structure.

Claims 3-7 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley in view of Hale USPN 1,438,595.

(Re claims 3-7,30-33)

Riley discloses a medicine dispenser as disclosed above.

Riley does not disclose a barrel style accumulator.

Hale teaches a barrel style accumulator as is common in the prior art.

It would be obvious to one skilled in the art to modify the dispenser of Riley to use a different style accumulator as it is an art recognized alternative.

Claims 11-14,17-18,23 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riley in view of Hale further in view of Chudy et al. USPN 6,170,230.

(Re claim 11-14,17-18,23 and 34) The accumulator as taught by Hale includes a trailing edge which when rotated scrapes the outer receptacle clearing any material gathered, said edge being straight and not circular. A member rotates the inner receptacle opening the bottom and scrapping the side with the trailing edge.

Riley/Hale does not disclose a discrete scrapping element.

Chudy discloses a flexible scrapper member affixed to the edge of dispensing mechanism.

It would be obvious to one skilled in the art to modify the dispenser of Riley/Hale to include a flexible scrapper affixed to the trailing edge because it prevents blockages and items getting stuck between the dispensing element and housing.

### ***Allowable Subject Matter***

Claim 16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2,8,15,19,21-24 and 25 are allowed over the present prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY R. WAGGONER whose telephone number is (571)272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

TRW